The Solicitors' Journal

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CURRENT TOPICS

The Law Society: Report of the Council

THERE is an astonishing wealth of information in the Annual Report for 1948–49 of the Council of The Law Society. The scope of their activities during the past year is illustrated by the numbers of meetings of their standing committees, special committees, and joint committees. Of the twenty-one standing committees the Examination Committee held fifty-one meetings and the Legal Aid Committee came a close second with forty-six meetings. The Cost of Litigation Special Committee held fourteen meetings, the Joint Committee with the General Council of the Bar held fourteen meetings and the Joint Committee with the Solicitors' Managing Clerks' Association held five meetings. All previous records for membership of The Law Society have been beaten this year, the figure being 14,015 as against 13,500 last year. The report, however, points out that there are still some 2,850 solicitors holding practising certificates who are not members and an even greater number who do not hold practising certificates who have not availed themselves of the 1941 invitation to join the Society. The list of matters dealt with during the year is imposing and gratifying. The Legal Procedure Committee dealt with such varied matters as the fixing of dates for trial in the King's Bench Division, procedural matters in divorce, uniformity of procedure under the Agricultural Holdings Act, 1948, taxation of solicitors' costs under Ord. 22, r. 14, and advertisements under the Trustee Act. Examples of activities of the Parliamentary Committee are the obtaining of an assurance from the Ministry of Supply that rules under cl. 42 of the Iron and Steel Bill would not exclude the right of representation by solicitor or counsel before the arbitration tribunal, representations to the Archbishop of Canterbury that solicitors should be eligible for appointment as Diocesan Chancellors, and an amendment which was inserted in the Patents and Designs Bill to ensure that patent agents should not be enabled to prepare deeds.

Work of the Council

OUTSTANDING among the many activities noted in the Council's report for 1948-49 are the studies leading to the memoranda put forward by the Special Committee on the Cost of Litigation. These are set out in an appendix to the report, and they are all characterised by their bold and disinterested approach to the problems examined, which range from fixed dates for trial to court fees, solicitors' remuneration on contentious matters, vacations and hours of work in the Supreme Court, and civil business on assize. The memorandum on the last-mentioned topic covered sixty-four foolscap pages, and only the introductory paragraphs and final conclusions are set out in the report. Oral evidence was also given before working parties of the Supreme Court Committee on the Cost of Litigation, on Chancery Procedure, on Fixed Scales of Party and Party Costs, and on Evidence. The main activity of the Joint Committee with the Bar Council was the consideration of evidence to be given before the Departmental Committee on Supreme Court Practice and Procedure. The joint committee submitted four memoranda dealing with fixed dates for trial and form of pleadings and summons for directions, the work of the judge in chambers, and court fees. Oral evidence was also given, where possible jointly, " but on certain subjects, and notably that of counsels' fees, there was an agreement to differ." Perhaps the most interesting reading in the whole report is the analysis of taxed bills of costs in the superior courts, with their statements of solicitors' charges and counsels' fees, set out as part of the Council's memorandum on solicitors' remuneration in contentious matters.

The Worshipful Company of Solicitors of the City of London

IN his speech at the fifth annual general meeting of the Worshipful Company of Solicitors on 29th June, 1949, the Master re-emphasised the strong views held by the Court on the question of solicitors' remuneration. A whole year had passed, he pointed out, without any amelioration but rather a worsening of the position, by reason of ever-increasing overhead charges. After summarising the memorandum issued by the Court in March (see *ante.*, p. 153), he said that although solicitors could not take the course which some workers have done with considerable success, he was not without hope. The Law Society had asked them to send a further deputation to discuss the matter, which might lead to further representations being made. Concluding, the Master observed that the tendency to rule by decree and regulation, often depriving the citizen the right of recourse to the courts or laying down that he may not be legally represented before certain tribunals, still prevails. The Company most wholeheartedly supported every effort of The Law Society to resist any curtailment of the right of every citizen to be legally represented if he so desired before any tribunal set up by a Government department or Minister, and he hoped that when the Legal Aid and Advice Scheme came into force people would be able to obtain advice as to their rights which were being encroached upon by Government departments under Defence Regulation 55A.

Justices of the Peace Bill

THE Bill which was published last week to give effect to the recommendations of the Royal Commission on Justices of the Peace is a substantial document of 35 sections, six schedules and 57 printed pages. Its pages of repeals and amendments add a further terror to the lives of both commentator and practitioner, who will, however, suffer contentedly if that is the unavoidable price of genuine reform. Most of the proposals are now familiar to lawyers who have kept abreast of events. Solicitors who are justices of the peace with their names on the supplemental list, as well as their partners, will be enabled to practise in the area where they are justices, according to cl. 5 (3). Under cl. 5 (4), where a solicitor is a justice of the peace for the County of London merely by virtue of his office as mayor of a metropolitan borough, the right of his partner to practise will not be affected by his being a justice of the peace for the county. Another amendment which will please the profession is that proposed in cl. 24 (1), under which a solicitor of not less than seven years' standing may be appointed stipendiary magistrate under any Act passed prior to the Bill. A disappointing feature of the Bill is in cl. 15 (1), which preserves the qualification of ten years' experience, as an alternative to being a barrister or solicitor of five years' standing, as the qualification for being a magistrates' clerk. As the President of The Law Society, Sir ALAN GILLETT, wrote in *The Times* of 25th June, this clause disregards the unanimous recommendation of the Roche Committee in 1944 that " nothing but a professional qualification will fully meet the circumstances."

Justices of the Peace Bill: Other Reforms

IN addition to the expected reforms, such as the residence qualification for justices, and the consolidation of the existing law as to the supplemental list, other less well-known proposals include the abolition of commissioners of the peace of non-county boroughs. Clause 8 (6) provides for their abolition except in counties and county boroughs, and the consequent abolition of non-county borough recorders, deputy recorders, clerks or deputy clerks of the peace, justices' clerks, criers or other officers except as provided by the Second Schedule. The Lord Chancellor is to be given power to make rules to prescribe the maximum number of persons to sit as justices at quarter sessions and petty sessions, so as to ensure the attendance of " enough, but not more than enough " justices. Clause 31 provides for regulations to be made by the Home Secretary for compensation to be paid to persons suffering loss of office or employment or loss or diminution of emoluments attributable to the coming into force of any of the provisions of Pts. II and III of the Bill, relating to commissions of the peace, constitution of the courts, magistrates courts' committees and justices' clerks, or to anything done under those provisions.

The End of an Anomaly

WE are indebted to a reader who has asked us to draw solicitors' attention to s. 30 of the War Damage (Public Utility Undertakings, etc.) Act, 1949, which received the Royal Assent on 31st May. We referred to the matter while the Bill was still before Parliament (*ante*, p. 120) and we gladly comply with the suggestion of our reader, a London solicitor, to amplify the point now that it is law. As he pointed out in his letter, its operation is not confined to public utility undertakings. The section remedies certain anomalous results of s. 64 of the 1943 Act by providing for the transfer to new owners of rights and liabilities for war damage which had not accrued at the date of change of ownership. The effect of s. 64 of the 1943 Act was that contribution could not be exacted until war-damaged land was rendered fit. Where the undertaking, which would in due course when the land became fit be under an obligation to pay that contribution, went out of existence there would be no right of indemnity in respect of any portion of that contribution ; it would be a right which had not yet accrued. Therefore, it would just vanish when the undertaking itself ceased to exist, whether under the terms of a nationalisation measure or in any other way. Section 30 ends the anomaly.

Capital Issues Control: Borrowing by Local Authorities

A TREASURY circular dated 15th June, 1949, and addressed to local authorities, refers to Treasury Circular of 15th March, 1949, and supersedes para. 2 thereof. Under this circular consent for the purpose of the Control of Borrowing Order, 1947, and subject to the conditions set out in para. 3 of Treasury Circular of 3rd July, 1947, is given (*a*) to the renewal or other amendment of mortgages without application for specific Treasury consent, with effect until 31st March, 1950, in the case of local authorities in England and Wales, and until 15th May, 1950, in the case of local authorities in Scotland, and (*b*) to the replacement of mortgages repaid during the period ending 31st March, 1950, in the case of local authorities in England and Wales, and during the period ending 15th May, 1950, in the case of local authorities in Scotland, provided that such replacement is effected within six months from the date of repayment of the existing mortgage.

A Chancery Court at Preston

THE reopening of the sittings of the Chancery Court of the Duchy of Lancaster at Preston on 20th June, after an interval of over a hundred years, is an event in English legal history. The Vice-Chancellor, Sir LEONARD STONE, expressed himself as quite satisfied that the volume of work and the convenience of litigants of the northern and central part of Lancashire more than justified the resumption of the sittings at Preston. " It is my intention," he said, " to sit here periodically, and I also have to consider the question as to whether the resumption of sittings sometimes at Lancaster should also take place." Sir Leonard added that 250 years ago a diarist wrote that " Preston lives chiefly by the quill, there being kept there all the courts of the county." He referred also to an entry from a book of 1680 which mentioned the very beautiful guild or town hall in Preston " in which is held the court of Chancery for the Duchy." We congratulate the court, its Chancellor, and the solicitors and counsel who practise before him, on the resumption of a great tradition.

Council of Law Reporting

THE Incorporated Council of Law Reporting of England and Wales have published their annual report, balance sheet and trading and revenue account for the year ended 31st December, 1948 ([1949] W.N. 32, 24th June, 1949). Trading receipts and expenses, including stock on hand at the beginning and the end of the year were higher, the former by £1,340 and the latter by £8,247. The loss on trading was £9,864, an increase of £6,906 on the previous year's loss. The chief increases comprised in this loss were printing and paper £4,216, editors' and reporters' salaries £2,330 (in which were included grants to reporters on their retirement), and publishing and storage £1,310. The rise in printing and paper costs is stated to have accounted for almost half the entire trading loss. The enormous increase in paper consumption is illustrated by a comparison of the number of pages in the statutes, excepting the index to the local and private Acts, at the beginning of the century with the number at the present day. In 1901 the number of pages was only 218 ; in 1948 the number was 2,268. If, as there is reason to suppose, says Sir STANLEY POTT, the chairman of the Council, the statutes will become even more voluminous, the Council will be compelled to consider whether they can justifiably continue to present them to subscribers free of cost.

Recent Decision

In *Land* v. *Land*, on 16th June (*The Times*, 17th June), a Divisional Court (the PRESIDENT and BARNARD, J.) held that a withdrawal of a complaint, whether on a preliminary point or on the merits of the case, did not operate as an estoppel in a matrimonial case so as to preclude a complainant from relying on the same offence in a subsequent summons.

OF IMMUNITY

In a society built on the basis that no one is above the law, the grant to certain persons of a dispensation from the process of the courts must appear anomalous. In the ordinary way the jurisdiction of the King's courts comprehends not only his subjects, using that word in the sense of those who owe him natural allegiance, but anyone, speaking generally, who is at the time of the service of process upon him present within the geographical area known colloquially and to R.S.C., Order XI, as " the jurisdiction "—to wit, the countries of England and Wales and the town of Berwick-on-Tweed—is subject to the control of the English courts, as is also a ship within English territorial waters in relation to an action *in rem* against the ship or its cargo. The popularly known exception to this broad statement concerns ambassadors and others deputed by foreign or dominion governments to represent their countries here in diplomatic, and not merely consular, matters. These, with their families and employees, the Crown exempts from taxation and, as a matter of international comity, shields from the operation of its judicial system. That reciprocity of privilege and obligation which is a normal feature of our law appears at first sight to be lacking in this regard, for diplomatic immunity may be waived, and does not prevent the holder from himself invoking the court's aid. He submits thereby to a jurisdiction from which he is entitled to claim immunity. The true reciprocity is between the Crown itself and the foreign state, which invariably grants a similar privilege to our own diplomatic officials.

Now the theorists tell us that this immunity of ambassadors and their servants is but a part of a wider privilege available to the sovereign persons or states which they represent. The statement by Brett, L.J., in *The Parlement Belge* (1880), 5 P.D., at p. 214, of the general principle of the recognition by every sovereign authority of the independence and dignity of every other sovereign state is clear support for treating the diplomat as but the representative of his sovereign in this matter. Yet some practical points of distinction may well prompt the practitioner to pigeon-hole the case of the embassy servant separately in his own mind from that of the foreign sovereign power itself. In the first place, ambassadors and their staffs and families enjoy the privileges explicitly laid down for them in the Diplomatic Privileges Acts, 1708 and 1941, though these do not supersede the common law privileges (*The Amazone* (1940), 84 Sol. J. 76. There is no statutory embodiment of the immunity of the foreign sovereign. Then it is not generally realised that certain of the immunities long granted to diplomatic persons may now be extended by Order in Council to the staffs of international organisations such as the United Nations Organisation and the International Court of Justice (Diplomatic Privileges (Extension) Acts, 1944 and 1946). The most novel feature of this extension is that it may cover a very large number of British subjects having no obvious foreign associations.

Nor are the circumstances in which foreign sovereigns may have to plead their immunity likely to be similar to those which lead to attempts to sue diplomats. The Sultan's alleged promise to marry (*Mighell* v. *Johore* [1894] 1 Q.B. 149) is surely exceptional—and except in his country's adversity (cf. *Haile Selassie* v. *Cable & Wireless, Ltd.* [1939] Ch. 182) he is not likely to be personally within the geographical jurisdiction of the court except transitorily. Sovereign immunity arises usually in a matter of state, whereas the ambassador's brush with our courts almost invariably concerns him in his private capacity. On the other hand, modern states have fingers in many non-diplomatic pies, which they are apt to stir vicariously not by ambassadorial digits but by the mail-clad arm of an agency or commission. The Court of Appeal have recently been discussing (see *The Times*, 24th, 25th and 28th June) whether in such a case it signifies from the point of view of immunity whether the sovereign's delegate, operating for instance as a distributor of news, is or is not a separate legal entity such as a corporation (*Krajina* v. *Tass Agency*). (The court chose an avenue of escape amid the deficiences of the evidence before it.) A member of an ambassador's staff (though not the ambassador himself) loses his privilege in so far as he engages in trade.

From another recent case (*Dollfus Mieg & Cie* v. *Bank of England* [1949] 1 All E.R. 946) there emerge several points of general interest on the subject of the immunity of foreign sovereign states. As in so many modern cases with an international flavour, the report exhibits a set of facts comparable in complication with commercial life to-day, scarcely likely to recur and many of them relevant only as leading to subsidiary findings. So far as the facts are material for the present purpose it may be said that the action was one for delivery up or damages for conversion in respect of certain gold bars, for an injunction restraining the defendant bank from dealing or parting with them and for damages for detention. The bars were held by the bank as part of a deposit on a " gold set aside " account opened by it at the request of the Treasury, acting, as the learned judge found, on behalf of the governments of the United Kingdom, the United States and France. The bars, purchased by the plaintiffs in 1939, had been seized in France in 1944 by the Germans from the plaintiffs' bailees, carried to Germany and recaptured by American troops in 1945. The report is of a motion by the defendant bank to set aside the writ on the ground that the action impleaded two sovereign states, the governments of the United States and France, who had not submitted to the jurisdiction of the court.

We may set out as follows the points which illustrate or establish interesting propositions on the general subject of sovereign immunity :—

(1) It was obviously incontrovertible that the two governments concerned are foreign sovereign states. In a case where there is no such notoriety on this question, the correct and only procedure by which the court can inform itself of the material fact is by directing a letter to be written to the British Foreign Secretary asking whether His Majesty's Government recognises the authority in question as a foreign sovereign state (see *The Arantzazu Mendi* [1939] A.C. 256). Similarly a notification from the Foreign Office to the court concerning the diplomatic status of a person is conclusive (*Engelke* v. *Musmann* [1928] A.C. 433).

(2) The foreign states whom, according to the defendants' motion, it was sought to implead, were not direct parties to the action. It was the defendants who were in effect pleading the immunity. The states were, however, concerned as bailors of the gold to the defendants. This situation was not entirely novel, for there are Admiralty precedents which show that the immunity principle precludes the court from pronouncing a judgment *in rem* against property in which a foreign sovereign is interested, since that would oust the sovereign from his enjoyment of the property. Jenkins, J., after considering these and other cases, held that the principle of immunity could apply even though neither foreign sovereign state was a party and even though the relief sought was relief *in personam*.

(3) The interest of the two foreign states as mere bailors appears to have been lower in degree than that claimed by the plaintiffs as owners of the gold. This, of course, was a point upon which the decision might well have turned had the action proceeded to trial. For the purpose of the immunity principle, however, Jenkins, J., clearly treats it as sufficient to found immunity if the property in question is in the possession or control of the sovereign. Possession here including legal or constructive possession (*The Arantzazu Mendi, supra*), his lordship adopts a passage from *Ancona* v. *Rogers* (1876), 1 Ex. Div. 285, to the effect that goods delivered to a bailee to keep for the bailor are still in the bailor's possession. Even if that were wrong, the learned judge thought it abundantly plain that the states were in control of the gold.

(4) It had been argued for the plaintiffs that in the circumstances of the case the gold bars had become impressed with a trust under which the plaintiffs were

interested. That argument did not succeed, but it should be noted that had a trust been established a *quasi* exception to the principle of immunity would probably have applied, for as Jenkins, J., says: "if property in this country is subject to a trust, the court has jurisdiction to administer the trust at the suit of any person interested, even though the persons interested include a foreign sovereign state which does not submit to the jurisdiction." In support of this proposition the learned judge refers to *Gladstone* v. *Musurus Bey* (1862), 1 Hem. & M. 495, at p. 503, and the Court of Appeal judgment subsequently reversed on another ground in *Larivière* v. *Morgan* (1872), L.R. 7 Ch. 550. The paramountcy of equity is in some senses international.

(5) A peculiarity of the present case is that the interest of the foreign sovereign states was a joint one, and joint, moreover, not merely as between themselves, but a joint interest shared with the Government of the United Kingdom, no longer (observe the paradox) immune from process in the English courts (Crown Proceedings Act, 1947). Jenkins, J., did not think that this consideration excluded the principle of immunity, since interference with the joint possession and control of the three governments would necessarily be interference with the possession and control of each of them jointly with the others.

In the result the learned judge upheld the objection of the defendant bank to the proceedings. Looking at the substance of the whole matter, he thought the action could fairly be described as, in effect, an attempt to sue indirectly the three governments concerned of which two could not have been directly sued. It would be what James, L.J., in *Twycross* v. *Dreyfus* (1877), 5 Ch. D. 605, called: "a monstrous usurpation of jurisdiction" to allow the action to proceed.

Perhaps the most interesting aspect of the case from the point of view of precedent is the confirmation it gives to the proposition that the principle of immunity protects the property of a foreign sovereign not only while in his actual possession, but also while it is in the hands of a third party, provided that the sovereign's title to control the property is shown. Viewed in this light, *Dollfus* forms a useful footnote to the observations of Lord Maugham in *The Cristina* [1938] A.C. 485, at pp. 516–7, where he points out that the property in goods and chattels claimed by an ambassador or foreign government would have to be established in our courts before the immunity could be claimed.

J. F. J.

A Conveyancer's Diary

ADOPTED CHILDREN

THE question which came up for decision in *Re Fletcher* [1949] 1 All E.R. 732; 93 SOL. J. 301, recently, was whether the word "children" in an English will can include adopted children. There was no precedent for the decision, which consequently broke new ground; but if there was no precedent, there was a valuable guide in the cases, the best known of which is *Hill* v. *Crook* (1873), L.R. 6 H.L. 265, which deal with the analogous problem of illegitimate children and the possibility of such children benefiting under a gift to "children." And it is striking to see to-day how well the foundations of the rule of construction applicable in the case of illegitimate children were laid in the latter case, from the circumstance that the principles can now be made to apply to a totally different situation without any sense of strain. Nothing could well have been further from the minds of the House of Lords in 1873 than adoption, a practice not sanctioned by the law of this country at that date, and in a legal context associated then only with those constant disputes arising out of the addiction of the Hindoos to the custom.

A number of distinct arguments were put before the court in *Re Fletcher*, covering such matters as domicile, but as Roxburgh, J., found himself able to decide the question before him as a point of construction and nothing more, the facts relevant to the actual decision can be summarised very quickly. The testator, who had American connections, made two wills, an English will and an American will, of which the former only is relevant. By this will he left his residuary estate in trust for his daughter H absolutely, but if (an event which happened) she should pre-decease the testator, then for all her children. H was domiciled in New York at all material times. She was married, but there was evidence which showed plainly that she was at all material times incapable of bearing a child, and that both H and the testator knew this.

Two children had been adopted by H, one well before the date of the English will. The adoption order in the case of the other was made after the date of that will, but before the date of a codicil to that will. The details of the codicil do not appear from the report, and it would therefore seem that the learned judge did not rely on the codicil for his decision; what was more important was that the second child had been *de facto* adopted some time before the formal order of adoption was made and before the date of the English will.

Since the decision applied the principles laid down in *Hill* v. *Crook*, *supra*, something must now be said of those principles. The clearest statement of the law appears in a passage from the speech of Lord Cairns, at pp. 282–3. After saying that the principle to be extracted from the earlier cases was that the word "children" in a will *prima facie* means legitimate children, and that if there is nothing more in the will illegitimate children cannot take under a gift to children, Lord Cairns went on to lay down two exceptions to the general rule which have become classic. The first of these exceptions is the case where it is impossible from the circumstances that any legitimate children could take under the gift, and this class of case was instanced by a gift "to the children of my daughter Jane" where Jane is dead having left illegitimate children but no legitimate children. In such a case as this, since the testator must be taken to have known the state of his family and to have intended to benefit some children of Jane, rather than that the bequest should fail altogether the court will hold that the illegitimate children should take under the term "children." The other exception is where there is upon the face of the will itself an expression of the testator's intention to use the word "children" not in its *prima facie* meaning of legitimate children but in a meaning which will include illegitimate children. This exception is, of course, no more than the application to particular cases of the general rule that a testator can clothe a word with any meaning he pleases to attach to it, the duty of a court of construction in such a case being confined to seeing that the testator has made his intention, however perversely worded, quite clear.

Applying the first of these exceptions to the facts of the case before him, Roxburgh, J., concluded that whether the child in question was an illegitimate child or an adopted child, the only question was the sense in which the testator had used the word "children," and that it was legitimate to find that the particular sense included adopted children. On this footing the adopted children of H were entitled to the residuary estate given to the "children" *simpliciter* of H. Nor was this position affected by s. 5 (2) of the Adoption of Children Act, 1926, which preserves the rights of an adopted child to property to which the child is entitled as the natural (i.e., actual) child of its parents, and expressly provides that adoption confers no property rights on a child as a child of the adopter.

The facts in *Re Fletcher* were simple, and favourable to the adopted children: in both cases adoption had taken place, *de facto* if not *de jure*, before the date of the will under which they claimed. The decision will not, therefore, assist an adopted child claiming as a "child" under a will if the adoption took place after the date of the will, unless there are some other circumstances to indicate that such a child should take under the particular instrument, and testators whose

families include adopted children would be well advised to take special precautions to see that a gift is drawn in sufficiently clear terms to include a newly adopted child if it is the intention to benefit such a child.

It may not be irrelevant to add, by way of postscript, that on the Report stage of the Adoption of Children Bill in the House of Commons last week an amendment was proposed with the object of giving an adopted child the same rights of inheritance under the will of the adopter as would be possessed by a legitimate child of the adopter. The amendment was not pressed on the understanding that the Government would seek to introduce a clause having this effect when the Bill is considered in the House of Lords.

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Some of my readers may recall the decision in *Re Power* [1947] Ch. 572. In that case Jenkins, J. (as he then was), held that a power to invest trust moneys " in any manner in which [the trustee] may in his absolute discretion think fit in all respects as if he were the sole beneficial owner of such moneys including the purchase of freehold property in England and Wales " did not authorise the purchase of a house for the occupation of the testator's widow (who was the life tenant of the residue). I expressed the view in this " Diary " at the time (see (1947), 91 SOL. J. 454) that the decision was not only inconvenient, but hardly justified by the authorities; and in particular I called attention to a passage from one of the judgments in *Re Rayner* [1904] 1 Ch. 176, where the question was the meaning of the word " securities " and it was said that the meaning of such a word is always relative to the circumstances and occasion on which it is used. That seemed to me then, as it still does, a more reasonable approach to the meaning of a word like " invest " than the strict construction put upon it by the learned judge in *Re Power*, where he held that the purchase of a house for occupation, and not with the purpose of deriving a pecuniary return from it, was not an investment and so not within the terms of the investment clause.

This opinion is reinforced by some words used recently by Harman, J., in *Re Lilly* [1948] 2 All E.R. 906, where he said, in relation to the expressions " investments " and " securities for money " that: " they may mean almost anything within limits according to the context in which they appear," and quoted Jarman on Wills (7th ed., at p. 1273) to the effect that " ' investment ' is a vague term and no general rule can be laid down as to its meaning." But the draftsman, with the restrictive decision in *Re Power, supra*, before him, would do well to consider the use of the compendious phrase " invest or apply " in a context similar to that which existed in that case, if application of money for purposes not attended by an immediate return in the shape of income (or, at least, the expectation of such a return) is in the testator's mind.

" A B C "

Landlord and Tenant Notebook

LANDLORD AND TENANT (RENT CONTROL) ACT, 1949

II—SHARED ACCOMMODATION: FURNISHED LETTINGS

THE provisions of the new statute by which the law in *Neale* v. *Del Soto* [1945] K.B. 144 (C.A.) is disposed of are contained in ss. 7, 8 and 9 of the new Act, s. 10 enacting that these apply to lettings which began before the commencement of the Act as well as to new lettings, but not so as to affect rent in respect of any period before such commencement or anything done or omitted during any such period. The provisions are, of course, in the main concerned with security of tenure rather than with rent as such, and they divide *Neale* v. *Del Soto* lettings into two kinds: (1) those which were excluded from protection because the terms gave the tenant, besides exclusive possession of some accommodation, the use of other accommodation in common with (*a*) the landlord, or (*b*) the landlord and other persons; and (2) those which were excluded because the terms gave him the use of other accommodation with another person or other persons, not being or including the landlord. It will be remembered that *Llewellyn* v. *Hinson* [1948] 2 K.B. 385 (C.A.) demonstrated that *Neale* v. *Del Soto* applied when two tenants shared the kitchen.

Cases within (1) *supra* are simply assigned to the Furnished Houses (Rent Control) Act, 1946, " notwithstanding that the rent does not include payment for the use of furniture or for services " (s. 7), with the result that those in the position of the tenant in *Neale* v. *Del Soto* itself will not gain much by the change, though some additional security of tenure is conferred by s. 11 (dealt with later in this article).

Cases within (2) are, by s. 8, brought within the principal Acts, and this has necessitated a number of consequential provisions, some of them declaratory. Contemplating, for instance, the possibility of argument arising out of some increase or diminution of a tenant's rights to use the shared accommodation, or any improvement or worsening of that accommodation, when standard rent has to be ascertained, the Act by s. 8 (3) provides that such happenings are not to prevent the previous letting from being considered a letting of the particular dwelling-house; on the other hand, by s. 8 (4) (*a*) such a change *is* to count for the purposes of the provisions concerning increases of rent or transfers of burdens to tenants sharing living accommodation of the kind that would have made *Neale* v. *Del Soto* apply—e.g., a kitchenette (*Winters* v. *Dance* (1948), 92 SOL. J. 425 (C.A.)).

Then, possibly with a view to preventing what might be called " victimisation," the section nullifies any term of tenancy (contractual or statutory) which would terminate or modify a tenant's right to use shared living accommodation, but saves any agreement by which the number of rightful sharers could be varied or increased. I take it this means that if A divides, say, a three-storied house into a ground-floor flat and maisonette, licensing each tenant to use the kitchen in one part, he may not withdraw that licence from either; if, however, he subsequently divides the maisonette into two flats, the tenant of the ground floor will not, if this was provided for, be able to enforce any objection to two people sharing the kitchen with him instead of one. But, realising perhaps that " unpleasantness " may well result from the crystallisation of sharing arrangements of this kind, the Legislature has, in subs. (8), given county courts power to make the following orders: (1) an order *terminating* the right of a tenant to use shared accommodation *other than living accommodation*; (2) an order *modifying* a tenant's right to use shared accommodation—but these orders can be made only in cases in which the terms of the tenancy do not provide to the contrary. And, what may be important, only the landlord can apply for such an order.

Section 9 appears to have been passed primarily to deal with the position which came under examination in *Turner* v. *Baker* [1949] 1 All E.R. 560 (C.A.), which, as it were, showed that *Neale* v. *Del Soto* went even further than it had been shown to go in *Llewellyn* v. *Hinson, supra*. In the latter, the two tenants held of the plaintiff; in *Turner* v. *Baker* a tenant, who would have been protected, sub-let a room and granted the sub-tenant the right to share her kitchen, and it was held that she had thereby deprived herself of protection, being no longer tenant of a " separate dwelling." The section puts an end to this " without prejudice to the rights against and liabilities to each other of the tenant and any person claiming under him, or any two such persons." But it does more than this: it confers protection, against a head landlord, on a furnished sub-tenant, and *Barrell* v. *Fordree* [1932] A.C. 676, which showed that a protected tenant who sub-let parts of the house furnished could be deprived of those parts as far as the Rent Acts were concerned, joins *Neale* v. *Del Soto*

after a much longer innings, during which opportunities for getting rid of it were missed. It is, perhaps, of interest that both these cases were somewhat extreme instances: the tenant in *Neale* v. *Del Soto* shared an unusually vast amount of accommodation in a large house, but the decision affected sharers of kitchens or even kitchenettes only in far smaller buildings; the tenant in *Barrell* v. *Fordree* sub-let one set of three and another of two rooms furnished and lived in the only remaining room and the scullery, but the principle of course applied in the more usual case of some tenant letting one floor furnished.

The amendments of the Furnished Houses (Rent Control) Act, 1946, are perhaps less drastic than was expected, at all events as regards the security of tenure position dealt with by s. 11. What the latter effects amounts to this: whereas formerly a landlord who "got his notice in first," i.e., served a notice to quit before the tenant (or local authority) referred the contract to the tribunal, scored by not having to put up with the tenant for a further three months (unless reduced by the tribunal), a tenant may now apply, at any time during the currency of a notice to quit, for an extension up to three months provided that the contract is referred. The mere making of an application will prevent a notice to quit having effect until it is determined (the Legislature realises that many tenancies or contracts affected are of the weekly variety), and even if an application is turned down the applicant is given another seven days. What will happen as regards rent if these seven days should not correspond to a rent-period remains to be seen; in many cases of this kind, rent is payable in advance, and the Apportionment Act, 1870, does not apply to forehand rent (*Ellis* v. *Rowbotham* [1900] 1 Q.B. 740 (C.A.)).

Section 12 amends and extends the law relating to premiums, in the main bringing it into line with the new provisions concerning unfurnished lettings.

R. B.

NOTES OF CASES

JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

CEYLON: ELECTION PETITION: RIGHT OF APPEAL

De Silva *v.* Attorney-General for Ceylon and Others

Lord Simonds, Lord du Parcq and Lord Normand

10th May, 1949

Petition for special leave to appeal.

Windham, J., a judge of the Supreme Court of Ceylon, acting as an election judge under the Ceylon (Parliamentary Elections) Order in Council, 1946, on an election petition declared the election of the petitioner as a member of the House of Representatives for the Kandy Electoral District to be void. By s. 81 of the Order in Council of 1946, "At the conclusion of the trial of an election petition the election judge shall determine whether the member whose return or election is complained of, or any other and what person, was duly returned or elected, or whether the election was void, and shall certify such determination to the Governor. Upon such certificate being given, such determination shall be final: and the return shall be confirmed or altered, or the Governor shall within one month of such determination by notice in the Government Gazette order the holding of an election in the electoral district concerned, as the case may require, in accordance with such certificate." Windham, J., having certified his determination to the Governor-General, the candidate with the next highest number of votes (one of the present respondents) was declared elected. The present petition followed.

LORD SIMONDS, giving the judgment of the Board, said that the question was concluded by authority. In *Théberge* v. *Laudry* (1876), 2 App. Cas. 102, where the combined effect of the Quebec Controverted Elections Act, 1875, and the Quebec Election Act of the same year was to create a position in all relevant respects similar to that of the petitioner under the Ceylon Order in Council, it was held that no appeal lay to His Majesty in Council, and the observations made by Lord Cairns, L.C., in delivering the opinion of their lordships were exactly applicable to the present case. It was no doubt true that the prerogative right to entertain an appeal was "taken away only by the express words or the necessary intendment of a statute or other equivalent act of state" (see *Renouf* v. *Attorney-General for Jersey* [1936] A.C. 445, at p. 461); but, as was pointed out in *Théberge* v. *Laudry*, *supra*, the preliminary question must be asked whether it was ever the intention to create a tribunal with the ordinary incident of an appeal to the Crown. In this case, as in that, it appeared to them (their lordships) that the peculiar nature of the jurisdiction demanded that that question should be answered in the negative. It was contended that different considerations applied where, as here, the jurisdiction of the election judge to hear election petitions was not substituted for that of the legislative body itself but was created *de novo* on the establishment of that body. But that appeared to their lordships to be an unsubstantiated distinction and in effect to be met by *Strickland* v. *Grima* [1930] A.C. 285. Such a dispute as was here involved concerned the rights and privileges of a legislative assembly, and, whether that assembly assumed to decide such a dispute itself or it was submitted to the determination of a tribunal established for that purpose, the subject matter was such that the determination must be final, demanding immediate action by the proper executive authority and admitting no appeal to His Majesty in Council. That was the substance of the authorities, and, in accordance with them, an appeal in such a dispute had never yet been admitted. They (their lordships) had humbly advised that the petition should not be granted. Petition dismissed.

APPEARANCES: *Sir Valentine Holmes*, K.C., and *Handoo* (*T. L. Wilson & Co.*); *Gahan* (*Burchells*).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

COURT OF APPEAL

LANDLORD AND TENANT ACT: NEW LEASE AT MORE THAN STANDARD RENT

Rose *v.* Hurst

Lord Greene, M.R., Asquith and Denning, L.JJ.

5th May, 1949

Appeal from Uxbridge County Court.

The appellant was the tenant under a twenty-one-years' lease at £90 a year of a shop with living accommodation above it. He carried on a greengrocer's business in the shop and lived above it. The premises were within the Rent Restriction Acts. On his application under s. 5 of the Landlord and Tenant Act, 1927, the county court judge, finding that the tenant would be entitled to compensation for loss of goodwill under s. 4 if he had to leave the premises, ordered the grant of a new lease for fourteen years at £230 a year, which rent he fixed according to the considerations specified by s. 5 (2) of the Act of 1927, though the standard rent was £90. The tenant appealed.

DENNING, L.J., said that the claim by the tenant to be granted a new lease was opposed to his staying on as a statutory tenant at the standard rent of £90 and was aimed at his obtaining a more valuable tenancy that could be disposed of and might give greater security of tenure. Nevertheless it was argued that the rent was bound to be limited to the standard rent. That must depend on the wording of the statutes concerned. The Rent Restriction Acts limited the rent to the standard rent and made any increase irrecoverable. That had been held to apply notwithstanding any agreement or judgment to the contrary. As against that, the proviso to s. 5 (2) of the Act of 1927 laid down the considerations by reference to which the rent, on the grant of a new lease under that Act, was to be fixed. The provisions of the Rent Restriction Acts as to standard rent and s. 5 (2) of the Act of 1927 could not apply at one and the same time to the same premises. Under the Act of 1927 the rent was to be fixed by the courts, whereas under the Rent Restriction Acts it was already determined. How could the rent be fixed between a willing lessor and a willing lessee when, if the Rent Restriction Acts applied, there was no question of willingness whatever? The proviso to s. 5 (2) of the Act of 1927 should be construed as if it began with the words "Notwithstanding the provisions of the Rent Restriction Acts." The county court judge's decision was right.

LORD GREENE, M.R., and ASQUITH, L.J., agreed. Appeal dismissed.

APPEARANCES: *Stogdon* (*Lawrence Dennis & Co.*); *Astell Burt* (*Stilgoes*).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

LANDLORD AND TENANT: RELIEF FROM FORFEITURE: NOT A MATTER OF INFERENCE

Smith *v.* Odder

Lord Greene, M.R., Asquith and Denning, L.JJ.
6th May, 1949

Appeal from Watford County Court.

The defendant, the tenant of a Rent Act house, defaulted in payment of rent, and the landlord brought an action for possession. On the failure to enter an appearance, the master made an order for possession, arrears of rent and mesne profits. Some weeks later, on the tenant's application, the master ordered that the previous order should be set aside on the tenant's paying the arrears of rent. The master was not asked to grant relief against the forfeiture of the tenancy which had been incurred, and had no jurisdiction to do so because the requirements of s. 212 of the Common Law Procedure Act, 1852, had not been fulfilled. The arrears of rent were paid, and the tenant remained in possession. He later went bankrupt, whereupon his trustee in bankruptcy disclaimed the tenancy. The landlord then brought another action for possession, contending that the effect of the master's second order was to grant relief from forfeiture, so that the tenancy remained in being and the trustee in bankruptcy could disclaim it. The county court judge made an order, and the tenant now appealed.

LORD GREENE, M.R., said that the issue of the writ in the earlier action was an unequivocal act by the landlord showing his intention to forfeit the lease. The second order of the master was nothing more than a setting aside of his original order made in default of appearance. The landlord contended that that order was to be treated as equivalent to a grant of relief against forfeiture for non-payment of rent. It was nothing of the kind: the master had not been asked to grant relief against forfeiture, and he had purported to do no such thing. Relief against forfeiture was a serious and technical matter; it could only be granted on the conditions and the terms which the law laid down in the old equitable form of relief or the statutory form of relief. Relief against forfeiture was not to be spelled out of the conduct of the parties irrespective of the conditions laid down by law in that matter. The landlord's case was that the forfeiture effected by the issue of the original writ was set aside and that the lease was reinstated by the relief granted by the master. If that proposition were right, the trustee in bankruptcy of the tenant would have been entitled to disclaim the lease. If the lease was never reinstated because there was never any grant of relief, then the trustee in bankruptcy had no power to disclaim. The resultant statutory tenancy would not have vested in him. The lease had come to an end by forfeiture and had not been reinstated. It had accordingly not vested in the trustee in bankruptcy. The defendant was a statutory tenant, and the appeal must be allowed.

ASQUITH and DENNING, L.JJ., agreed.

APPEARANCES: *H. H. Harris* (*Geo. W. Bower & Son*); *J. F. E. Stephenson* (*E. C. Randall*).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

CHANCERY DIVISION

VENDOR AND PURCHASER: DELAY IN COMPLETION: TIME LIMIT

Finkielkraut *v.* Monahan

Danckwerts, J. 21st June, 1949

Consolidated actions.

In the first action the plaintiff F, purchaser of a house at Hendon, claimed rescission of the contract and return of the deposit of £535; in the second action the defendant M claimed specific performance of the contract by the plaintiff. In September, 1947, the defendant M contracted with G to purchase the property, but G died on 5th October before the contract could be carried out and in December, 1947, M contracted with F to sell to him the bulk of the property, excepting a small piece of garden, for £5,350, and F paid the deposit. Delay occurred in obtaining probate of G's will, and on 18th March, 1948, the purchaser's solicitor informed the vendor's solicitor that a mortgagee who had been expected to provide part of the price was not prepared to go on. On 31st March the vendor's solicitor sent a notice to complete within fourteen days, which would expire on 14th April. The purchaser's solicitor on 2nd April sent an engrossment of the conveyance to the vendor's solicitor for execution by the vendor. This contained errors which were at first not noticed by any of the parties, but was approved. Completion statements were exchanged on 5th and 7th April. On the following days errors in the proposed conveyance were discovered and the executor's solicitors objected to its form. On 14th April the purchaser's solicitor's clerk called at the vendor's solicitor's office bringing bankers' drafts for the amount of the purchase-money, but the vendor's solicitor said that owing to the difficulties which had arisen the completion could not then take place. After correspondence and telephone conversations the plaintiff's writ for rescission was issued on 22nd April, and the defendant's writ for specific performance on 5th May.

DANCKWERTS, J., said that the position on 14th April was that there was a willing vendor, the defendant, and a willing purchaser, the plaintiff, and he could not understand why the matter could not have been settled reasonably without recourse to actions. There were difficulties in drafting for which both solicitors were responsible, but they insisted on standing on their legal or equitable rights. The only question for decision on those facts was whether the vendor was entitled to specific performance of the contract, and in his lordship's opinion he was not. The defendant by her notice had made completion by 14th April an essential term of the contract, and the plaintiff was ready to complete. The defendant could not be heard to say that time was not essential. If the notice bound the person to whom it was given then it also bound the person who gave it. See *Stickney* v. *Keeble* [1915] A.C. 386, and *Green* v. *Sevin* (1879), 13 Ch. D. 589, and *In re Sandwell Park Colliery* [1929] 1 Ch. 277. The latter was in some respects a different case, but it showed that a vendor who was claiming specific performance as on a certain date must show that he himself was in a position to complete at that date. Here the defendant was not in a position to complete, and she was not entitled to a decree for specific performance. It was therefore a case where it would be proper to make an order under s. 49 (2) of the Law of Property Act, 1925, for the return of the deposit to the plaintiff, and he would make the order accordingly. The solicitors were to blame for hasty action, when the matter could have been settled on a friendly basis in a very short time, and there would be no order as to costs. The solicitors on each side would be left to deal with their own clients.

APPEARANCES: *C. R. D. Richmount* (*Asher Fishman*), for plaintiff; *F. E. Skone James* (*M. Landy*), for defendant.

[Reported by H. LANGFORD LEWIS, Esq., Barrister-at-Law.]

KING'S BENCH DIVISION

DIVISIONAL COURT

ROAD TRANSPORT: EXPRESS CARRIAGE

Railway Executive *v.* Henson

Lord Goddard, C.J., Birkett and Lynskey, JJ. 3rd May, 1949

Case stated by Nottinghamshire justices.

By a scheme made under the Transport Act, 1947, the British Transport Commission delegated to the Railway Executive certain of their powers including that of providing services of express carriages and stage carriages carrying passengers. The scheme empowered the Executive to perform such functions through agents, and came into operation on 1st January, 1948. In that month the Executive arranged that a motor transport company should provide an omnibus to carry the Executive's employees living at Retford and working at Ranskill to and from their work daily. The company were charged on information preferred by the Traffic Commissioners under s. 72 of the Road Traffic Act, 1930, with using the omnibus without a road service licence, and the Executive were charged with aiding and abetting. Each was convicted and fined twenty shillings. The Executive appealed. By s. 65 (1) of the Transport Act, 1947, s. 72 of the Act of 1930 "shall not apply to any passenger road transport service provided . . . under a scheme . . . by the Commission or by any person acting as agent for the Commission."

LORD GODDARD, C.J., said that s. 65 (1) of the Act of 1947 clearly entitled the Executive to provide a road passenger transport service without complying with s. 72 of the Act of 1930. The company had, however, been prosecuted on the ground that they and not the Executive had supplied the transport here, and the Executive had been prosecuted for aiding and abetting the company. In his opinion the justices had come to a wrong conclusion. If the Executive had not supplied the transport, who had? They were entitled to hire an omnibus from the company. They had told the company whom they were to carry and at what times, and by what route. In those circumstances the transport was provided by the Railway Executive and by nobody else.

BIRKETT and LYNSKEY, JJ., agreed. Appeal allowed.

APPEARANCES: *B. J. M. Mackenna* (*E. Coleby*); *F. A. Stockdale* (*Treasury Solicitor*).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

DIVISIONAL COURT

SOLICITOR: LIEN ON DEBT FOR COSTS

James Bibby, Ltd. *v.* Woods and Another

Lord Goddard, C.J., Birkett and Lynskey, JJ. 5th May, 1949

Appeal from Birkett, J., in chambers.

Two partners, having dissolved partnership, began actions against each other in the Court of Passage, and in the county court, at Liverpool. The actions were compromised on terms that the one partner paid the other £90. A limited company, having obtained judgment against the partner to whom the £90 was owing, applied for attachment of the debt. On 25th February, 1949, the company obtained a garnishee order *nisi*, and on 28th February the solicitor of the judgment debtor heard of it. In March the company applied to the district registrar at Liverpool for that order to be made absolute. At the hearing of that application the judgment debtor's solicitor claimed that he had a lien on the debt of £90 for his costs in the proceedings between the judgment debtor and the garnishee. The registrar made the garnishee order absolute. The judgment debtor appealed to Birkett, J., in chambers under R.S.C., Ord. 35, r. 9, but Birkett, J., dismissed the appeal, holding that he had no jurisdiction to entertain it under that rule and that it should have been to the Divisional Court under Ord. 54, r. 22A. The judgment debtor now appealed to the Divisional Court.

LORD GODDARD, C.J., said that it was contended that, since the solicitor of the judgment debtor claimed to have a lien on the debt, the registrar ought to have ordered an inquiry under Ord. 45, r. 5, instead of making the garnishee order absolute. The registrar would have been under a duty to order an inquiry if it had come to his knowledge that the money belonged to a third person. For example, in *Roberts* v. *Death* (1881), 8 Q.B.D. 319, it was held that money in the hands of the garnishee as trustee could not be used to satisfy the judgment creditor's debt. The present appeal was really an appeal by the judgment debtor's solicitor, since the judgment debtor was not affected by the garnishee order: he had to pay either the judgment creditors or his solicitor. The solicitor was not a party to the present proceedings, and it was doubtful whether the court had jurisdiction to hear the appeal. In any case, however, the solicitor had no lien on the £90 because, though he was entitled to apply to the Court of Passage, or to the county court, for a charging order, he had not done so. Until he obtained a charging order he had at the most an inchoate right to apply for one; but he had no lien on the money: see *per* Cockburn, C.J., in *Mercer* v. *Graves* (1872), L.R. 7 Q.B. 499, approved in *Mason* v. *Mason* [1933] P. 199. *Shippey* v. *Grey* (1880), 49 L.J. Q.B. 524 was distinguishable.

LYNSKEY and BIRKETT, JJ., agreed. Appeal dismissed.

APPEARANCES: *Craine* (*McKenna & Co.*, for *G. H. Mossop*, Liverpool). The other parties to the garnishee proceedings neither appeared nor were represented.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

NUISANCE: LIMITATION; COMPETENCE OF ACTION AGAINST CATCHMENT BOARD

Marriage *v.* East Norfolk Rivers Catchment Board

Byrne, J. 12th May, 1949

Action.

The plaintiff, a miller, complained that his bridge was swept away by a river in spate because the defendant catchment board, in exercise of their statutory powers, had executed certain works which prevented the flood water from flowing away by its usual channel. By s. 34 (3) of the Land Drainage Act, 1930, "where injury is sustained . . . by reason of the exercise by a drainage board of any of its powers . . . the board shall be liable to make full compensation to the injured person." (*Cur. adv. vult.*

BYRNE, J., said that in his opinion the word "injury" in that subsection connoted something which would give a legal right of action at common law but for the powers given to the board by the statute. Where such a cause of action existed, therefore, there would be a right to compensation. Section 34 (3) prescribed the manner in which the compensation was to be determined. It had been argued for the plaintiff that the subsection was only concerned with the quantum of compensation; but, in his view, the authorities showed that, in a case in which there was a dispute as to compensation, the arbitrator had to determine, first, whether there was an injury which would have given a right of action but for the statute, and, secondly, the proper amount of compensation. The effect of ss. 33, 34 and 35 of the Act was that the board had power to do what was complained of in the present instance, that was, to raise the height of the south bank of the river; and that, assuming that the effect of what the board did was to cause damage to the plaintiff which would have been actionable at common law but for the statutory authority of the board, his only remedy was to claim compensation as provided in s. 34 (3) and no action based on nuisance would lie against the board. If that were wrong, and such an action would lie, the question was whether such a claim would be barred by s. 21 of the Limitation Act, 1939, which provided that an action against a public authority must be begun before the expiration of one year from the date on which the cause of action accrued, or, in the case of a continuing act of neglect or default, from the time when it ceased. The wrongful act of depositing the dredgings on the south bank of the river alleged in the present case was completed on 6th January, 1944, and on that day the cause of action arose. No positive act after that date was alleged and the writ was not issued until 5th November, 1947. It followed that the right of action, if it existed, would be barred by the Act of 1939. Judgment for the defendants.

APPEARANCES: *Fortune* (*Butt & Bowyer*, for *Daynes, Keefe and Durrant*, Norwich); *Diplock*, K.C., *R. A. McDonald* and *de Montmorency* (*Church, Adams, Tatham & Co.*, for *Sprake and Chadwick*, Norwich).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

HERE AND THERE

THE LAW LORDS MOVE AROUND

THE Law Lords have made yet another move. That comes to five different places that they have sat in since peace in our time was shattered ten years ago this September. Their pilgrimage started in the vast sumptuous over-gilt Chamber that the genius of Victorian Gothic had bestowed on the nobly born and the newly ennobled. There counsel, contending with difficult acoustics, peeped at their lordships over the top of the stout wooden walls of a particularly exiguous pen or sheep-fold. Next, when the Lower House was destroyed by bombardment and the migrating swarms of the Faithful Commons settled in the Upper Chamber, the peers, including the Law Lords, moved south to the King's Robing Room beyond the Royal Gallery, where they still remain for legislative purposes. The space is smaller, the provisional fittings are less sumptuous, the Law Lords are less remote and the acoustics are better, but the gorgeous Victorian background is as reminiscent of the Eglinton Tournament as that of the true House of Lords. Counsel have better accommodation for their books and, with somewhat more elbow room, suffer rather less from claustrophobia. Solicitors and parties have to sit half in the elaborate fire-place and no one on the appellants' side of the Bar can get out again without a painful trampling on feet, legs, volumes of Law Reports and assorted papers. Those on the respondents' side of the Bar find the backs of their wigs much breathed on by covey after covey of school-age fledglings and Service personnel, devoting a couple of minutes of a conducted educational tour to absorbing the mysteries of the supreme appellate tribunal, its constitution and procedure.

UNDER FIRE

THERE, in an atmosphere of quite astonishing detachment the Law Lords continued to function throughout the great bombardments. The flying bomb epoch brought the institution of an imminent danger signal and compulsory adjournment to shelter in the region of Black Rod's department. Those who witnessed it will not readily forget the gesture of impatience and irritation with which Lord Wright greeted the signal breaking into the middle of his delivery of an opinion. He, for one, preferred to pass the imminent danger periods in the open air outside the door at the foot of the Victoria Tower. In fact there was quite a substantial peril that, just as the Commons had been blown out of their Chamber and the Judicial Committee of the Privy Council had been blown out of Downing Street, the Lords, already victims of their own courtesy in giving their seats to the Commons, might find themselves, suddenly and involuntarily, displaced persons. Against this eventuality a place had been prepared for them over the way in Church House—a long low room in the modern ecclesiastical style. The Law Lords only used it once but the curious may care to note in their Law Reports that there, on 27th July, 1944, were delivered the opinions in *Barclays Bank, Ltd.* v. *Attorney-General* [1944] A.C. 372. Those were the days when, under a shower of flying-bombs, Londoners were finding comfort in the advance to the Arno and the break-through at St. Lo. Apropos of the removal of the Judicial Committee from Downing Street, it happened that a junior, by no means a public figure, seeking it and not finding it, made bold to inquire at No. 10. He was admitted to the hall while this information

was obtained and he was duly told of its whereabouts. In those days knots of the intelligent British public would gather expectantly in this region, hoping for a glimpse of one or other of our men of destiny, known or unknown, and as the enquiring junior, with his official-looking despatch case, emerged from the sacred precincts, he was greeted with respectful cheering.

THE APPELLATE COMMITTEE

THE next move for the Law Lords was to Committee Room A, the war-time asylum of the Judicial Committee, next door to the Library. The pile drivers preparing the ground for an enormous new boiler house, just beneath the windows of their temporary Chamber, required the longest possible working day and it was thought that the best way to give it to them was to constitute the Law Lords an Appellate Committee and set them to hear appeals in another place. The change was accomplished not without opposition on constitutional grounds, particularly from Lord Simon. Now building operations have begun just on the other side of the corridor to reconstruct the shattered half of the Law Lords' gallery where they have their private rooms, and once again they have taken the road and shifted their venue upstairs to Committee Room No. 1 at the far end of that broad, imposing corridor where, in the golden Victorian days, so many fortunes were made at the Parliamentary Bar, but in to-day's fading glory there is little left to discuss but water rights. Committee Room No. 1 is spacious and handsome and, of course, Gothic with light panelling and nothing sombre about it but the scowl of Lord Chancellor Thurlow glowering in his robes from an enormous portrait. Like Committee Room A, it enjoys an agreeable prospect of the river and its craft. How long the Law Lords will find rest there is not known but it must be a glad thought to them that soon there will be private rooms enough to go round, for, behind the scenes, they are existing in a sad condition of overcrowding.

RICHARD ROE.

SURVEY OF THE WEEK

HOUSE OF LORDS

A. PROGRESS OF BILLS

Read First Time :—

Agricultural Holdings (Scotland) Bill [H.L.] [23rd June.

To consolidate the Agricultural Holdings (Scotland) Act, 1923, Pt. II of the Small Landholders and Agricultural Holdings (Scotland) Act, 1931, Pt. I of the Agriculture (Scotland) Act, 1948, and certain other enactments relating to agricultural holdings, save, with respect to rights to compensation, in their application to certain cases determined by past events.

Alexander Scott's Hospital Order Confirmation Bill [H.C.] [23rd June.

Civil Aviation Bill [H.L.] [23rd June.

To consolidate the enactments relating to civil aviation other than the Carriage by Air Act, 1932, and other than the enactments relating to the constitution and functions of the Airways Corporation.

Glasgow Corporation Order Confirmation Bill [H.C.] [22nd June.

Urmston Urban District Council Bill [H.C.] [23rd June.

Vehicles (Excise) Bill [H.L.] [23rd June.

To consolidate certain enactments relating to excise duties on mechanically propelled vehicles, and to the licensing and registration of such vehicles, with such corrections and improvements as may be authorised under the Consolidation of Enactments (Procedure) Act, 1949.

Read Second Time :—

British Transport Commission Bill [H.C.] [23rd June.

Merchant Shipping (Safety Convention) Bill [H.C.] [22nd June.

Royal Bank of Scotland Officers' Widows' Fund Order Confirmation Bill [H.C.] [23rd June.

To confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act, 1936, relating to the Royal Bank of Scotland Officers' Widows' Fund.

Superannuation Bill [H.C.] [21st June.

Read Third Time :—

Crewe Corporation Bill [H.L.] [22nd June.

Manchester Ship Canal Bill [H.L.] [22nd June.

Teignmouth and Shaldon Bridge Bill [H.C.] [23rd June.

In Committee :—

Iron and Steel Bill [H.C.] [23rd June.

B. DEBATES

On Consideration of the Commons Reason for disagreeing with the Lords Amendment to the Lands Tribunal Bill, giving an appeal to the Tribunal from the assessment of development charge by the Central Land Board—" Because they consider that the Amendment raises questions not relevant to this Bill "—the LORD CHANCELLOR said that both Lord Simon and Lord Swinton were in error when they had said the Bill gave a right of appeal against the Board's assessment of compensation from the global fund. That right of appeal was conferred by the Town and Country Planning Act, 1947. All that the present Bill did was to provide that the appeal should lie to the Lands Tribunal instead of to an official arbitrator as provided in the 1947 Act. He went on to compare the elaborate code set out in ss. 60, 61 and 62 of the 1947 Act for the assessment of claims for compensation, which code would of course also be observed by the Lands Tribunal, with the wholly different position under s. 70. In that section no appeal from the Board's decision as to development charge was contemplated. It was the duty of the Board to secure, as far as practicable, that land could be freely bought and sold, or otherwise disposed of in the open market, at a price neither greater nor less than its existing use value. That governing rule was vague and indefinite. The second rule was that the charge should not be more than the sum which the Board were satisfied represented the additional value due to planning permission. Thirdly, regulations had provided that the charge should not be *less* than that figure unless in the opinion of the Board the charge ought properly to be less. This was a matter for the discretion of the Board and could not really be the subject of appeal at all.

Continuing, Lord Jowitt said it had been said that the district valuers did not offer to discuss or did not disclose the process by which they had made their valuation. He had had no illustration of that, and he would welcome one since it was entirely opposed to the instructions under which these valuers should work. In the case of the Union Club, the original figure for the charge quoted by the district valuer was a purely provisional one given over the telephone without looking at figures at all and had properly been considerably modified later on. Should he be blamed because he had tried to help people by giving a purely provisional figure to help them in their negotiations with the landlord ? In another case—the case of the lady who wished to open a nursing home at Bath—the first figure given for the charge was £1,943. This was a most worthy lady and a most worthy cause and the Central Land Board were anxious to help. They had looked at the figures and decided that they had not allowed enough for the cost of conversion, and reduced the charge accordingly to £1,000. As she was not able or willing to pay that sum, they had suggested that a cheaper way of doing it would be to take a permission limited in point of time. There was nothing Machiavellian about that—they wanted to help what they conceived to be a worthy cause. He had not received a single complaint about the way the Central Land Board were doing their work, and that was also substantially true of the Ministry of Town and Country Planning. He thought the present system was working well. It might hereafter be found to be desirable to have a more precise code under s. 70, and in that event it might be desirable to put in some kind of appeal, but that change could not be made in the present Bill, which was a purely procedural one.

LORD SIMON then rose and said he did not think everyone was so well pleased with the present system as was the Lord Chancellor. In the case of both s. 60 and s. 70 the Board had to subtract the value of the land when restricted to its present use from its greater value when it was free to be developed. In the case of s. 60 there was to be an appeal to a highly skilled tribunal, whereas the assessment of development charge was to be the subject of " higgling " only. As the Board had the right to tell the subject what to do, the higgling would not be on very equal terms. The charge when paid would go to the Exchequer, like any other tax. In practice the charge was fixed by the local district valuer, who would operate within a limited area with consequent risks of variation from place to place. What they wanted was to give an appeal to the Lands Tribunal and have the proper figure fixed according to law. There were many citizens who, when they got a demand for money from those who collected it for the Exchequer, imagined that they had to accept it, and the poorer members of the community were the very people who found it most difficult to challenge what they might feel to be a grossly excessive claim. The lady mentioned by

the Lord Chancellor had had the pluck and persistence to challenge the assessment with the results which had been disclosed to the House. Lord Jowitt had not dealt with the question of variations in the charges made by the district valuers. Lord Balfour had said that this grievance imperilled the whole system of town and country planning in this country. What was the Government's answer to these complaints? That this Bill was only procedural. But it was setting up a highly expert tribunal for the very purpose of arriving more accurately at calculations which compared the value of land under its present use with the greater value which it would have if there were authority to develop it. Inasmuch as they were engaged in constituting this well-equipped tribunal, specially selected and appointed to deal with difficult questions of land valuation, he respectfully submitted that there was very good reason for placing upon it the jurisdiction to hear appeals under s. 70 as well as under s. 60. When this amendment had been first introduced the Lord Chancellor had said he would rather lose the whole Bill than accept it. That seemed rather a pity for, after all, ordinary people, when called on to pay these charges, without appeal, had no means of knowing whether the charge was just or of proving that the calculation was wrong. It seemed a pity when the opportunity existed to provide machinery which would remove a widespread feeling of bewilderment, if not of injustice, that the opportunity should be refused.

Would anyone tolerate for a moment that the Commissioners of Inland Revenue should fix taxes without there being any right of appeal? The development charge was analogous to a tax, and taxes should be certain in amount and openly calculated, and they ought to apply equally all over the country to everyone in the same circumstances. He thought it fallacious to argue that the charge was not a tax, but was a sale by the Government of something, i.e., the right to develop, which people could buy or leave as they chose. People were entitled to ask that the price be correctly calculated in accordance with the rules laid down, and surely one ought to be given the opportunity of satisfying a tribunal of appeal that the calculation was not according to law. The regulations had laid down that 100 per cent. of the development value was to be charged unless in the opinion of the Board it was right to reduce it. That meant that by law there was a maximum, and if anyone demanded more than the maximum he was breaking the law. But the subject was to have no redress against that. He was familiar with the conception that a discretion could not be interfered with by appeal. But there *were* cases where it could—it depended whether the discretion had been exercised on proper principles. He thought there was a great deal to be said on principle for having an appeal to an expert body which must hear in public what the estimates were, and not to rely on some private higgling. At present even if the Board demanded more than the maximum, the subject had to pay it, for he had no right of appeal.

One of the explanations given by Lord Jowitt had surprised him. They had heard that the Board had reduced a charge because they had thought they would want to help "an eminently worthy cause." What sort of exaction was this, when an official body, when they think a cause is "eminently worthy" say: "Well, you need not pay 100 per cent."? That did not seem to him the way in which we had hitherto managed our affairs.

VISCOUNT GAGE asked whether, if the Government would not have an appeal, they would consider putting before Parliament a White Paper containing the general principles on which the Central Land Board were going to work? That would at least ensure that Parliament could discuss the matter and would presumably have some binding effect on the Central Land Board. Otherwise the Board would be using these enormous new powers to make or mar any new enterprise, either public or private, at their own sweet will. He had no comment to make on the Practice Notes issued by the Board, except to say that they could be withdrawn at will. The LORD CHANCELLOR said he would not have the slightest objection to showing precisely the principles on which the Board were trying to work out what was a very difficult jurisdiction. He wanted Parliament to keep this whole machinery under review.

LORD LLEWELLIN said he was not satisfied with the Lord Chancellor's explanation of what had happened in respect to the Union Club. District valuers did not give haphazard answers like, "Oh, it will be £60,000," over the telephone without making some previous inquiry. The Lord Chancellor's account showed the district valuers to be rather more haphazard than Lord Llewellin would have said they were. If he *had* done that, he was, of course, doing it as the agent of the Central Land Board. It showed how irresponsible actions could be taken, simply because there was no appeal to any court to keep these people straight. The noble lord quoted another case which had come to his notice where a firm near Luton had been asked £600 development charge in respect of the conversion of a piece of a farm into a recreation ground for their workpeople. This was for a change of user from a use bringing in a profit to a use which did not bring in a profit.

LORD HYLTON said that since the Board had reduced the charge for the nursing home by about £1,000 it followed that the original assessment must have been wrong. The result of the present system was that people were having to employ their own valuers at considerable expense. These additional costs of higgling were added to the charge and, unless he got a reduction as a result, the developer had to pay more than the original charge. A man would be foolish to accept the original assessment, and the only way to get a reduction was to engage an equally skilled "artist." Only a valuer knew the keys which opened the way to a reduction of an original assessment. The district valuers were conscientious, but they were Government servants and they had to try to make the best bargain they could for their employers, the State. The Practice Notes said that the Board had something to sell and they wanted the best price they could get. You could only get a reduction by being a better bargainer than the district valuer. But not one in a hundred of the ordinary developers could enter directly into negotiations with the district valuers, and this was a burden which ought not to be placed on the ordinary citizen.

The EARL OF IDDESLEIGH said he had recentiy been concerned in a small piece of development and he could assure their lordships that the difference between the original assessment and the sum he actually paid by way of development charge was more than 50 per cent. He was himself well pleased with this bargain, but when he saw the original figure he had very nearly abandoned the idea of developing altogether. He suggested an inquiry into the number of schemes which had been abandoned when the original figure was received. The EARL OF RADNOR said people who were undertaking small development could not afford to employ professional valuers. They usually employed a builder who knew nothing at all about the Town and Country Planning Act, and often they just dropped what they had thought of doing because they could not afford development charge and did not know how to get at the person who decided development charge in order to see whether he would change his mind. Recently he had sold a piece of land for building purposes. He had first fixed what he thought was the existing use value and then applied to the Board to fix the development charge. That proved to be approximately 20 per cent. higher than he would have charged for the whole land, including its development value. They had gone round to the district valuer. He had subtracted the existing use value from Lord Radnor's figure of the total value of the land and the difference he then assessed as the development charge. Any competent valuer would tell you that at least 50 per cent. of his work was guesswork. It was therefore very desirable that there should be an appeal to achieve uniformity.

VISCOUNT SWINTON said the fact that in the cases mentioned the charge had been reduced by one-third, one-half or even more showed the hopeless lack of uniformity between the original assessment and the final figure. These cases, which had been haggled out, and which the Lord Chancellor cited as cases in which people had been fairly treated, were the best argument for some kind of appeal. The district valuers were told to exact "100 per cent." There was no formula for fixing this, so in practice it meant "As much as you can get." They all hoped that building costs were coming down. If they came down, say 10 per cent., would not development charge then go up 10 per cent.? The district valuer was going to exact as much as he could get, and since the cost of conversion was deducted from the development charge, obviously as those costs came down so development charges would go up. The LORD CHANCELLOR said obviously a man could afford to pay more for the land if he could build his house for £100 than if it cost £1,000. LORD SWINTON said that was precisely his argument. Formerly the difference in value would have gone into the landowner's pocket: now it would go to the Central Land Board. But the one thing that was not going to happen was that the price of the finished article would come down. He thought the wise course would be to withdraw the Amendment, since he was convinced the Government would have to grant the right of appeal, and possibly much larger reforms, sooner or later.

LORD PORTMAN said the Lord Chancellor had assured the House that the Central Land Board consisted of lawyers and surveyors. He had investigated the Board's composition and found it consisted of two lawyers and no surveyors. He felt

that we were not getting the finest authority for the weighty matters of taxation which had that day been brought up.

In replying to the debate, the LORD CHANCELLOR said if the Board were to have a discretion, he did not think one could cope with the situation by an appeal. If one were to have a fixed and final code as in the case of Income Tax, then clearly one could have an appeal. He conceded that the matter was one which required careful attention. They would have to consider whether or not they had now found the best formula. He claimed the right to have second thoughts, and thought the Government might have to introduce some modification in the light of experience in working the Bill. In the course of a few months all sorts of difficulties might appear and he would not then hesitate to come to their lordships to tell them of those difficulties. [21st June.

HOUSE OF COMMONS

A. PROGRESS OF BILLS

Read First Time :—

Edinburgh and Midlothian Water Order Confirmation Bill [H.C.] [21st June.

To confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act, 1936, relating to Edinburgh and Midlothian Water.

Read Second Time :—

Oldbury Corporation Bill [H.L.] [21st June.

Rochdale Canal Bill [H.L.] [21st June.

Read Third Time :—

Adoption of Children Bill [*formerly Adoption Bill*] [**H.C.**] [24th June.

Cockfighting Bill [*formerly Baiting of Animals Bill*] [**H.C.**] [24th June.

London County Council (Money) Bill [H.C.] [23rd June.

Married Women (Maintenance) Bill [**H.C.**] [24th June.

B. QUESTIONS

In reply to a question by Mr. WILLIAM SHEPHERD as to the Home Secretary's intention of introducing legislation to deal with anomalies arising out of the Sunday Observance Acts, Mr. YOUNGER said he could hold out no prospect of early legislation. [23rd June.

The MINISTER OF PENSIONS stated that fifteen certificates had been issued under s. 10 (1) (*b*) of the Crown Proceedings Act, 1947. A certificate had been refused in one case on the ground that the injury was sustained during a brawl and could not properly be attributable to service. The Minister was under a duty to issue such a certificate if the soldier, sailor or airman concerned was on duty at the time of the accident. [21st June.

Mr. SILKIN said that any powers possessed by new towns development corporations would derive from their status as landlords, but he was not aware that any corporation had used their powers to dictate the layout of front gardens. Anyone was at liberty to refuse to arrange his front garden in the way directed, unless that was a condition of his tenancy, and he did not for a moment imagine that that situation would arise. [21st June.

Mr. SILKIN stated that up to 18th June, about 331,000 claims had been received for compensation for loss of development value. He was satisfied that generally the public was fully alive to the fact that 30th June was the last date for making claims. In reply to Mrs. MIDDLETON, Mr. SILKIN said that in the case of blitzed cities where compulsory purchase orders had been announced by local authorities it was nevertheless the individual, and not the local authority, who should make the claim for compensation. [21st June.

Mr. JANNER asked whether the Attorney-General was aware that there was grave urgency to protect large numbers of tenants of business premises who were threatened with eviction on the termination of their tenancies; and if in view of this and of the Interim Report of the Leasehold Committee, he would immediately introduce legislation for dealing with the position. Sir HARTLEY SHAWCROSS replied that he was aware of the views of the Leasehold Committee on this question, and he anticipated that a statement of the Government's intentions regarding their recommendations would be made very shortly. [21st June.

STATUTORY INSTRUMENTS

British Transport Commission (Executives) Order, 1949. (S.I. 1949 No. 1093.) This Order has now been revoked by S.I. 1949 No. 1130 (see below).

British Transport Commission (Executives) (No. 2) Order, 1949. (S.I. 1949 No. 1130.)

Canned Puddings (Revocation) Order, 1949. (S.I. 1949 No. 1110.)

Companies (Unregistered Companies) Regulations, 1949. (S.I. 1949 No. 1137.)

The effect of these Regulations is to provide that in the case of unregistered companies, which are nevertheless subject to the provisions relating to annual return, accounts and audit by virtue of s. 435 (1) of the Companies Act, 1948, references to the registered office of the company shall be taken as references to the principal office of the company.

Control of Building Operations (No. 13) Order, 1949. (S.I. 1949 No. 1102.)

This Order provides that during the period 1st July, 1949, to 30th June, 1950, work up to the value of £100 may be carried out on any single property without a licence. In the case of certain specified types of buildings the limit is fixed at £1,000. The latter are industrial buildings; farm buildings other than dwelling-houses; school, university and other educational buildings; office buildings with a floor area of not less than 10,000 square feet; and warehouse and storage buildings with a floor area of not less than 5,000 square feet.

Denbigh Water Order, 1949. (S.I. 1949 No. 1108.)

Draft **Double Taxation Relief (Profits Tax)** (Republic of Ireland) Order, 1949.

Fertiliser (Prices) (Amendment No. 2) Order, 1949. (S.I. 1949 No. 1136.)

Imported Softwood Prices Order, 1949. (S.I. 1949 No. 1079.)

Indian Military Service Family Pension Fund (Amendment) Rules, 1949. (S.I. 1949 No. 1129.)

Industrial Assurance and Friendly Societies (Death Certificates) Regulations, 1949. (S.I. 1949 No. 1139.)

Local Government (Transport and Electricity Payments for 1949-50) Regulations, 1949. (S.I. 1949 No. 1103.)

National Health Service (Executive Councils) Amendment Regulations, 1949. (S.I. 1949 No. 1120.)

Draft **National Service (Adaptation of Enactments)** (Naval and Marine Forces) Order, 1949.

Nurses (Amendment) Rules, Approval Instrument, 1949. (S.I. 1949 No. 1104.)

Paper (Use in Betting Schemes) Order, 1949. (S.I. 1949 No. 1100.)

Preserves (Amendment No. 3) Order, 1949. (S.I. 1949 No. 1111.)

Probation Officers (Superannuation) Order, 1949. (S.I. 1949 No. 1134.)

South Western Fire Area Joint Committee Incorporation Order, 1949. (S.I. 1949 No. 1131.)

Teachers Superannuation (Remand Homes) Scheme, 1949. (S.I. 1949 No. 1106.)

Telephone Amendment (No. 5) Regulations, 1949. (S.I. 1949 No. 1126.)

These Regulations amend the Telephone Regulations, 1936, to give effect to the Budget proposals as regards telephone charges.

Timber (Charges) (No. 10) Order, 1949. (S.I. 1949 No. 1080.)

Wild Birds Protection (Portsmouth) Order, 1949. (S.I. 1949 No. 1117.)

Youth Employment Service (Particulars) Regulations, 1949. (S.I. 1949 No. 1118.)

These Regulations prescribe the particulars to be furnished by schools as to the aptitudes of their pupils for purposes of vocational guidance. The particulars are to be furnished either to the Minister or to the Local Education Authority, whichever is operating the Youth Employment Service in the area concerned. The Regulations are made under the Employment and Training Act, 1948.

PARLIAMENTARY PUBLICATIONS

Justices of the Peace Bill (House of Lords Bill, Session 1948–49, No. 114).

NON-PARLIAMENTARY PUBLICATIONS

Industrial Organisation and Development Act, 1947. Proposals for a development Council for the Wool Textile Industry (Board of Trade).

Police Conditions of Service, Committee on. Home Office Memorandum of Evidence.

Police Post-War Committee, under the Chairmanship of Sir Frank Newsom, 2nd, 3rd and 4th Reports.

BOOKS RECEIVED

The Law of Contract. Second Edition. By G. C. CHESHIRE, D.C.L., F.B.A., Barrister-at-Law, and C. H. S. FIFOOT, M.A., Barrister-at-Law. London: 1949. pp. lvi, 495 and (Index) 28. Butterworth & Co. (Publishers), Ltd. 37s. 6d. net.

Revista Juridica De La Universidad De Puerto Rico. Vol. XVII, No. 4. 1948. pp. 75 and (Index) viii.

Fire Insurance Law. By HERBERT TAYLOR, B.Com., F.C.I.I., Barrister-at-Law. pp. (with Index) 130. 1949. London: Sir Isaac Pitman and Sons. 12s. 6d. net.

Simon's Income Tax. Vol. IV. Service No. 3. London: 1949. Butterworth & Co. (Publishers), Ltd. Annual Subscription for Service, 52s. 6d. net.

Chitty's Treatise on the Law of Contracts. Twentieth Edition. Second Cumulative Supplement. By BARRY CHEDLOW, Barrister-at-Law. London: 1949. pp. iv and 28. Sweet & Maxwell, Ltd. 3s. 6d. net.

Mayne on Damages. Eleventh Edition. First Supplement. By PETER ALLSOP, M.A., Barrister-at-Law. London: 1949. pp. vi and 18. Sweet & Maxwell, Ltd. 3s. 6d. net.

The Law List, 1949. Edited by LESLIE C. E. TURNER. London: 1949. pp. xi and (with Index) 2069. Stevens & Sons, Ltd. 15s. net.

Trial of James Camb. Notable British Trials Series. Vol. 71. Edited by GEOFFREY CLARK, Barrister-at-Law. London: 1949. pp. 255. William Hodge & Co., Ltd. 15s. net.

Kime's International Law Directory for 1949. Edited by PHILIP W. T. KIME. London: 1949. pp. xiv and (with Appendix) 468. Butterworth & Co. (Publishers), Ltd. 15s. net.

Copyright. "This is the Law" Series. By T. A. BLANCO WHITE, Barrister-at-Law. London: 1949. pp. viii and (with Index) 90. Stevens & Sons, Ltd. 4s. net.

NOTES AND NEWS

Professional Announcement

Mr. RONALD M. SIMONS announces that he is now practising in his own name at Rego House, Dukes Place, London, E.C.3, having terminated his partnership in the firm of Goodwin, Simons & Goodwin.

Honours and Appointments

Mr. IDRIS DAVIES, deputy clerk to the Anglesey County Council, has been appointed deputy clerk of the peace.

Mr. R. G. PRITCHARD, solicitor, of Criccieth, has been appointed assistant solicitor to Middlesex County Council.

The General Council of the Bar has appointed the following officers for the year: Mr. G. RUSSELL VICK, K.C., Chairman; Mr. H. A. H. CHRISTIE, K.C., Vice-chairman; Mr. G. R. UPJOHN, K.C., Hon. Treasurer. The following members of the Bar have been appointed additional members of the council: Sir DAVID MAXWELL FYFE, K.C., M.P., Mr. L. F. HEALD, K.C., Mr. M. P. FITZGERALD, K.C., Mr. H. EDWARD DAVIES, K.C., Mr. T. N. DONOVAN, K.C., and Miss B. A. BICKNELL.

Personal Notes

Mr. Francis Eagle-Clarke, solicitor, of Filey, Yorks, retired recently after forty-five years in the profession. With his retirement ends a family connection with the legal profession which has lasted more than 150 years.

Mr. E. Morris Gibson, solicitor, of Sutton, has been appointed Chairman of the Governors of the Sutton County School for Boys and the Nonsuch County School for Girls and also of the Board of Directors of the Sutton and District Water Company.

Mr. F. C. Metcalfe, solicitor, of Bradford, was married on 21st June to Miss D. Emanuel. Mr. Metcalfe is joint Secretary of the Bradford Incorporated Law Society.

Mr. R. H. Morton, senior assistant solicitor to West Ham Corporation, was married recently at Eston to Miss Vera Delicate, of Normanby.

Miscellaneous

At an extraordinary meeting of members of both the Valuers Institution, Ltd., and the National Association of Auctioneers, held on Wednesday, 22nd June, the appropriate resolutions were passed confirming amalgamation under the title of "The Valuers Institution." The presidents of both bodies, Mr. Aubrey Toone, A.R.I.B.A., F.V.I., and James Sutherland, F.N.A.A., F.V.I., continue in office as joint presidents.

The annual report of the Professional Classes Aid Council to 31st March, 1949, reveals that 282 families have been assisted by the council, which has 59 beneficiaries in receipt of annual grants and has made grants in respect of education to 105 children and to 64 students in training for the professions. The sum of £2,640 has been spent on general relief to meet temporary difficulties. The accounts for the year show a deficit of £368. Subscriptions and donations should be sent to the Professional Classes Aid Council, 20 Campden Hill Square, London, W.8.

KING'S BENCH DIVISION

TRIALS OF NON-JURY ACTIONS IN LONDON

Directions have been given by the Lord Chief Justice that the parties in an action in the printed lists may certify that the action is ready for trial and on production of such certificate in writing to the Clerk of the Lists the action will be advanced and placed in the next ensuing week's list for trial next after any actions which are left over from the previous week's warned lists.
(*See special directions published on the official notice boards.*)

Wills and Bequests

Mr. C. S. Hays, solicitor, of Blackpool, left £60,328, net personalty £23,403.

Mr. G. Shiach, solicitor, of Elgin, left £140,588.

SOCIETIES

The inaugural meeting of WEST ESSEX LAW SOCIETY was held on Tuesday at Ilford Town Hall. Mr. C. E. Edwards (East Ham) was chosen as the first president. Other elections were: Vice-presidents, Mr. L. W. Liell (Loughton) and Mr. J. C. L. Sharman (Stratford); hon. secretary and treasurer, Mr. L. H. Jee (Walthamstow); council, Messrs. S. A. Jewers (Barking), G. Lewis (Woodford), L. Mark Liell (Loughton), P. Dale (Wanstead), L. B. Court-Cooper (Ilford), C. K. Duthie (Bow and Brentwood), and E. Oliver (Ilford). Mr. T. G. Lund, secretary of the Law Society, addressed the meeting, and at a dinner which followed proposed the toast of the newly formed Society.

OBITUARY

MR. A. WHALLEY

Mr. Arthur Whalley, retired solicitor, of Bradford, died on 18th June, aged 76.

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